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Attorney Docket Number: FSP0163

Client Reference Number: 260158US

Title: network performance monitoring

Application Number: 09/995,056

Filing Date: Monday, November 26, 2001

First Named Inventor: Cruickshank III, Robert F.

Group Art Unit: 2151

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**for**

Attorney Docket Number: FSP0163  
Client Reference Number: 260158US  
Title: network performance monitoring  
Application Number: 09/995,056  
Filing Date: Monday, November 26, 2001  
First Named Inventor: Cruickshank III, Robert F.  
Group Art Unit: 2151

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I hereby certify that the following is being transmitted via facsimile to telephone number 571-273-8300 on Wednesday, May 16, 2007.

Signature: /Charles A. Mirho/  
Charles A. Mirho

**Contents of This Correspondence**

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2 pages of notice of noncompliant appeal brief  
30 pages of amended appeal brief  
1 page of Certificate of facsimile  
1 page of Petition for extension of time to reply  
1 page of Fee transmittal to PTO

Authorization to debit deposit account for \$120 dollars.

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**FEE TRANSMITTAL**

for

Attorney Docket Number: FSP0163  
Client Reference Number: 260158US  
Title: network performance monitoring  
Application Number: 09/995,056  
Filing Date: Monday, November 26, 2001  
First Named Inventor: Cruickshank III, Robert F.  
Group Art Unit: 2151

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TOTAL FEE: \$120 dollars

This fee includes:

USPTO statutory fee for extension of statutory period of reply by one month: \$120

Payment is made by Authorization to debit deposit account for \$120 dollars. PLEASE NOTE **FSP0163** AS THE ATTORNEY DOCKET NUMBER ASSOCIATED WITH THIS TRANSACTION.

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Submitted by:

Signature      /Charles A. Mirho/  
Charles A. Mirho  
Reg. 41,199  
Attorney for Applicant

Date: Wednesday, May 16, 2007

Address all correspondence to:  
FSP LLC  
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USA

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Fax: 360-294-6426



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,056	11/26/2001	Robert F. Cruickshank III	FSP0163	9528

7590 04/06/2007

Attn: Charles A Mirho  
FSP LLC  
P.O. Box 890  
Vancouver, WA 98666-0890

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 04/06/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

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MAY 16 2007

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	Application No. 09/995,056	Applicant(s) CRUICKSHANK ET AL.	
	Examiner Dhairya A. Patel	Art Unit 2151	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 12 January 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

4. Summary of claimed subject matter must identify and map all independent claims on appeal (1.13.33.45) to specification by page and line number or paragraph number and/or drawings, if any. Supplemental appeal brief added page and line numbers but does not specifically map the claim limitations to the citations.



**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER